

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF MONTANA  
3                   MISSOULA DIVISION

|    |                                  |   |                 |
|----|----------------------------------|---|-----------------|
| 4  | VERLE R. VINSON and NORMA R.     | ) |                 |
|    | VINSON, husband and wife,        | ) | Cause No.       |
| 5  |                                  | ) | CV-98-113-M-DWM |
|    | Plaintiffs,                      | ) |                 |
| 6  |                                  | ) |                 |
|    | vs                               | ) |                 |
| 7  |                                  | ) |                 |
|    | W.R. GRACE & CO.-Conn, a         | ) |                 |
| 8  | Connecticut corporation, EARL D. | ) |                 |
|    | LOVICK and DOES I-IV,            | ) |                 |
| 9  |                                  | ) |                 |
|    | Defendants.                      | ) |                 |
| 10 |                                  | ) |                 |
|    | <hr/>                            |   |                 |
| 11 | VERLE R. VINSON and NORMA R.     | ) | Cause No.       |
|    | VINSON, husband and wife,        | ) | CV-99-68-M-LBE  |
| 12 |                                  | ) |                 |
|    | Plaintiffs,                      | ) |                 |
| 13 |                                  | ) |                 |
|    | vs                               | ) |                 |
| 14 |                                  | ) |                 |
|    | W.R. GRACE & CO.-Conn, a         | ) |                 |
| 15 | Connecticut corporation, W.R.    | ) |                 |
|    | GRACE & CO., a Delaware          | ) |                 |
| 16 | corporation, W.R. GRACE, a/k/a   | ) |                 |
|    | GRACE, an association of         | ) |                 |
| 17 | business entities, MONTANA       | ) |                 |
|    | VERMICULITE COMPANY, a Montana   | ) |                 |
| 18 | corporation (dissolved), EARL D. | ) |                 |
|    | LOVICK and DOES I-IV,            | ) |                 |
| 19 |                                  | ) |                 |
|    | Defendants.                      | ) |                 |
| 20 |                                  | ) |                 |
|    | <hr/>                            |   |                 |

21                   VIDEO DEPOSITION  
22                   OF

23                   VERLE R. VINSON  
24                   (On Behalf of the Plaintiffs)

25                   Reported by Debra M. Hedman, RPR, RMR, and Notary  
                    Public for the State of Montana, Flathead County.

1  
2  
3 Taken at the Venture Inn  
4 443 Highway 2 West  
5 Libby, Montana  
6 Wednesday, December 15, 1999  
7 10:09 a.m.

8 A P P E A R A N C E S  
9

10 APPEARING ON BEHALF OF THE PLAINTIFFS:

11 John Lacey, Esq.  
12 McGarvey, Heberling, Sullivan & McGarvey  
13 745 South Main  
Kalispell, Montana 59901

14  
15 APPEARING ON BEHALF OF THE DEFENDANT:

16 Terry J. MacDonald, Esq.  
17 David Berkoff, Esq.  
Garlington, Lohn & Robinson, PLLP  
18 P.O. Box 7909  
Missoula, Montana 59807-7909

19 ALSO PRESENT:

20 (None)  
21  
22  
23  
24  
25

1 when we got married.

2 Q At some point in there, did you work at  
3 Zonolite?

4 A Yes. In 19 -- Summer of '48 until that  
5 fall and then I went back again in the spring of '49  
6 and I believe I was finished in January of '50, and  
7 I never went back again.

8 Q What did you do after you left Zonolite  
9 your second time?

10 A I went to work for J. Neils in the peeler  
11 department.

12 Q Now, you mentioned that you also had some  
13 body and fender school?

14 A Yes.

15 Q When was that?

16 A That was in '50 -- From November of '50 to  
17 April of '51.

18 Q What was that for? Was it mechanic work?

19 A Well, I thought I wanted to be a body and  
20 fender man, but it just didn't work out for me.

21 Q Did you spend a little time --

22 A I spent about a month trying it, but I  
23 couldn't make any money.

24 Q What did you do after you decided you  
25 weren't going to be a body man?

1 company"?

2 A J. Neils. That's what it was then.

3 Q So how long did you work for J. Neils when  
4 you settled down there the last time?

5 A Thirty-four years.

6 Q What kind of work did you do for them?

7 A Well, I fed a planer, run carrier, run  
8 lift truck, run the peelers, checked poles, pulled  
9 on the dry chain for 15 years, pulled on the green  
10 chain. A little bit of everything.

11 Q When did you retire?

12 A January of 1987.

13 Q And do you remember how old you were at  
14 that time?

15 A Sixty-two.

16 Q Do you still have relatives who live in  
17 Libby?

18 A Yes.

19 Q Who are they?

20 A I've got two brothers and a sister and an  
21 aunt that lives here.

22 Q Do you see them regularly?

23 A Oh, quite a bit.

24 Q I would like to talk specifically now  
25 about the Zonolite experience, when you worked up

1       there. Do you remember what your first job was when  
2       you started that first time?

3           A     Construction is about all I can say,  
4       because then -- more like a labor pool and they put  
5       you where they needed you.

6           Q     Do you remember who you worked for?

7           A     Tom DeShazer.

8           Q     Do you remember any specific jobs that you  
9       did when you worked in that job?

10          A     Well, we extended the waste belt a few  
11       feet. I think it was 50 to 100. I can't remember  
12       for sure.

13          Q     What do you mean when you -- what waste  
14       belt?

15          A     A waste belt takes the waste from the mill  
16       and it was dumping it right on the ground. What  
17       they did with it after that, I don't really know.  
18       But I know we added on to the waste belt so it would  
19       go out farther.

20          Q     Do you remember other specific jobs that  
21       you did when you were part of the labor pool?

22          A     Then I swept on the floors on the -- what  
23       I could get of it. The bottom floor was the worst  
24       because everything come down from the top.

25          Q     What do you mean when you say you swept?

1           A     Well, there's stuff on the floor. You  
2     just swept it up. Just small dust and stuff.

3           Q     Where was this?

4           A     In the dry mill.

5           Q     And how was your -- This is while you were  
6     part of the labor pool?

7           A     Yes.

8           Q     You just had to sweep for part of it?

9           A     Yeah, I believe I only done it for about a  
10    week.

11          Q     Do you remember whether that was a dusty  
12    job?

13          A     Yes, it was.

14          Q     Can you describe the dust conditions?

15          A     Well, it was filtering down from the upper  
16    floors, and I guess you raised a little bit when you  
17    were sweeping.

18          Q     What did your job consist of?

19          A     Well, just going to where they needed me,  
20    until I bid on the Lynn and then I drove Lynn for  
21    two, three months. They got in Eucs, and then that  
22    was the end of that job. So --

23          Q     I would like to direct your attention to  
24    this photo here. Is that --

25          A     Yeah, that's a Lynn dumping into the

1 grizzly.

2 Q And what did that job consist of?

3 A Well, just going up and letting the shovel  
4 operator go up and load you and bringing it back up  
5 to the grizzly and dumping it. Unless you had a  
6 load of waste which they took out of there with  
7 their shovel, and you would take it over to the bank  
8 and there was a dump boss there, he would back you  
9 up, and then you would raise your bucket and he  
10 would dump it -- or, you raise your box.

11 Q Do you remember whether that was a dusty  
12 job?

13 A Sometimes.

14 Q What do you mean "sometimes"?

15 A Well, if the wind was blowing. It wasn't  
16 too bad in the cab of the truck, unless you had your  
17 window down. Of course, like I say, I drove mostly  
18 in the fall and part of the winter.

19 Q So your window was up most of the time?

20 A Yes, it was.

21 Q Okay. Thank you. Were you ever in the  
22 mill, aside from the time that you were a sweeper?

23 A No.

24 Q Do you remember having dust elsewhere  
25 around the facility when you were driving the Lynn,

1 down on the ground there.

2 Q How close were you to the mill when you  
3 were doing that job?

4 A I would stay right, probably about halfway  
5 in the middle of that conveyor there. Of course I  
6 would have to walk back and forth.

7 Q Did you have to go into the mill at all?

8 A No, not then.

9 Q Was the mill running when you were doing  
10 that job?

11 A Yes, it was.

12 Q Do you remember seeing dust coming out of  
13 the mill?

14 A Yes. There was some coming out of there.

15 Q Can you describe the dust that you have  
16 referred to?

17 A Well, it was just cloudy, more or less.  
18 Just like if you -- Like that one thing there --  
19 that's there, that's called a cyclone and it always  
20 come out of the top of that.

21 Q Do you remember seeing dust settling  
22 around places where you worked?

23 A Well, I really don't remember much about  
24 that. That was too many years ago.

25 Q Do you remember why you left Zonolite the



1 one was wiped out by a train and they put another  
2 one in. I don't know how many years ago that was.

3 Q Do you remember whether that was a dusty  
4 job?

5 A Well, not on this side of the river it  
6 wasn't. The 37 side wasn't too bad -- Well, there  
7 wasn't really any ore down there at the time it was  
8 being built. The ore went to town.

9 Q Why was it that you left Zonolite at the  
10 second time?

11 A I got laid off, and I just never went  
12 back.

13 Q When you were hired at Zonolite, did the  
14 company warn you that exposure to the dust could be  
15 harmful to you?

16 A No.

17 Q When you were hired, did the company warn  
18 you that exposure to asbestos could be harmful to  
19 you?

20 A No.

21 Q When you were hired, did any of the other  
22 workers warn you about dust or asbestos?

23 A No.

24 Q Did you ever see any signs about the  
25 hazards of asbestos or the dust?

1 A No, I didn't.

2 Q Did your supervisors ever warn you that  
3 the dust could harm you?

4 A No.

5 Q Do you remember other workers talking  
6 about the dust when you worked there?

7 A Not really.

8 Q Do you remember whether any of the other  
9 workers ever complained or did you ever complain to  
10 supervisors about the dust?

11 A No.

12 Q Do you remember the supervisors telling  
13 you anything about the dust?

14 A No.

15 Q Were you aware of what minerals were up  
16 there when you were working at Zonolite?

17 A As far as I knew, it was just vermiculite.

18 Q Did you know that asbestos was present  
19 when you worked there?

20 A No.

21 Q When you worked at Zonolite, were you  
22 aware that other workers were getting sick from the  
23 dust?

24 A No, not really. I heard of it afterward,  
25 but I never paid much attention to it.

1       once in the afternoon. And during noon.

2           Q     And did you do that?

3           A     I did.

4           Q     Did the company ever warn you after you  
5       left Zonolite about the dangers of smoking?

6           A     No.

7           Q     After you left Zonolite that second time,  
8       did you ever hear from the company again?

9           A     No.

10          Q     They never contacted you for anything?

11          A     No, they haven't.

12          Q     When do you remember beginning to have  
13       serious breathing problems?

14          A     Oh, I believe it was December of '95, I  
15       was having -- I think it was '95. Let's see now.  
16       There's where it's hazy. They told me I had it in  
17       February of '96, but I think it was December that I  
18       ended up in the hospital because I couldn't breathe.

19          Q     What do you remember that took you to the  
20       hospital because you couldn't breathe?

21          A     I believe my son or my wife did. I can't  
22       remember for sure.

23          Q     Was there a specific instance that you  
24       remembered that you had to go to the hospital for?

25          A     Well, I can remember I was out trying to

1 shovel snow off -- it fell off of the garage, and  
2 all of a sudden I just couldn't breathe any more.  
3 So they took me to town and the doctor checked me  
4 over and decided I should be in the hospital. And  
5 he had x-rays taken and then he decided that he  
6 should sent me to Obermiller in Kalispell, so I went  
7 there in February of '96.

8 Q Do you remember having had breathing  
9 problems before that incident?

10 A I didn't, no.

11 Q Do you remember your conversation with  
12 Dr. Obermiller?

13 A Not too much, except he told me that I had  
14 asbestosis, and that was the end of it as far as I  
15 knew.

16 Q What's your understanding of  
17 Dr. Obermiller's specialty?

18 A All I know is he's a lung specialist.

19 Q Do you recall the test that Dr. Obermiller  
20 did on you?

21 A No, I don't.

22 Q What is your understanding of what  
23 asbestosis is?

24 A I really don't know. All I know is that  
25 he's the one that told me I got it and others

1       that -- the only other way I know is I'm short of  
2       wind half the time.

3             Q     Do you have any understanding about what  
4       the asbestos has done to your lungs? .

5             A     Just let me run out of room, I guess, as  
6       far as I can see or hear or -- the one in Spokane  
7       tells me.

8             Q     How does it feel when you --

9             A     That's what bothers me most is I can't.  
10       talk too much.

11            Q     Talking --

12            A     Gets me.

13            Q     -- gets you short of breath?

14            A     Uh-huh.

15            Q     If we need to take a break and get a drink  
16       of water --

17            A     Let's get it over with.

18            Q     Did you discuss your smoking history with  
19       Dr. Obermiller?

20            A     No.

21            Q     Did Dr. Obermiller say anything or ask you  
22       about it?

23            A     No, because I wasn't smoking at that time.  
24       I quit in '86 and I never mentioned it with anybody.

25            Q     Have you seen any other doctors? You

1 mentioned a trip to Spokane?

2 A I seen Whitehouse in Spokane.

3 Q Do you remember when that was?

4 A Let's see. I had the six month check-up  
5 in May of this year, so -- Must have been around  
6 October or -- October somewhere -- September,  
7 October of '98.

8 Q And have you seen him since October of  
9 '98?

10 A Well, I seen him in May of this year.

11 Q What's your understanding of  
12 Dr. Whitehouse's specialty?

13 A As far as I know he's a lung specialist is  
14 all I know about him.

15 Q Do you remember the kind of tests that you  
16 underwent?

17 A Yeah, they had a machine that -- or, a big  
18 isolation booth, I guess you'd call it, and they put  
19 you in there and they shut the door and give you a  
20 bunch of breathing tests. And then one of them they  
21 cut off all my air and you're supposed to see how  
22 long you live in there. I'm glad it was only a  
23 second.

24 Q Do you recall the results of those tests?

25 A Well, he -- The last time I was there, he

1 just said that I lost -- in six months I had lost  
2 300 percent of my breathing capacity -- well, CCs he  
3 called it. That's what he said. Whatever that  
4 means.

5 Q Do you understand whether that's a severe  
6 thing or whether that's normal?

7 A No, I don't.

8 Q Have you ever been exposed to asbestos in  
9 any other job?

10 A Not that I know of.

11 Q Did you ever tell any of your doctors that  
12 you had been exposed to asbestos?

13 A No.

14 Q Did any of your other doctors ever ask you  
15 whether you had been exposed to asbestos?

16 A They just asked me where I worked, but I  
17 don't know --

18 Q When they asked you that, did you tell ..  
19 them that you worked around asbestos?

20 A I just told them I worked at Zonolite and  
21 I didn't know I was working around asbestos.

22 Q What was your reaction when the doctors  
23 told you that you had an asbestos disease?

24 A Well, not very good, I guess. I do know  
25 what I'm doing. Nobody else can do that except me.

1 Q What did you notice?

2 A That I was real short of breath. And I  
3 had to go back on Prednisone, which I don't like to  
4 do.

5 Q What do you do now when you get short of  
6 breath?

7 A Use my inhaler and go sit down awhile.

8 Q And that helps you?

9 A Yes. Take deep breaths. I can even do  
10 that at night, though. Sometimes I wake up and I'm  
11 kind of gasping, so I'll just lay there and take  
12 deep breaths and it will finally go away.

13 Q Did you discuss with your doctors the  
14 future course of your disease?

15 A Not really. All I know is that Whitehouse  
16 said I would eventually die from it, but then he  
17 didn't say when or anything like that. So -- I just  
18 live from day-to-day.

19 Q Do you understand or do you know, are  
20 there any treatments that are available for you?

21 A Not that I know of, other than these  
22 inhalers and the nebulizer, the machine that I got,  
23 that I'm lucky enough not to have to use yet, for a  
24 while.

25 Q Have you talked with your doctors about



1 since '44.

2 Q But there are no other medical conditions  
3 that limit your activity?

4 A Not that I'm aware of.

5 Q What kinds of activities these days make  
6 you short of breath?

7 A Oh, going up stairs is one of them.  
8 And if I walk too fast is another one.

9 Q What do you notice when you walk up  
10 stairs?

11 A I just get short of breath is all.  
12 Have to stop and catch it once in a while.

13 Q How many stairs can you walk up before you  
14 get short of breath?

15 A Out home we only had about three steps,  
16 but if I'd go up and down them too many times I  
17 would get short winded. I would say about 10 or 12.

... 18 Q So about a flight?

19 A (Deponent nods head.)

20 Q How about other activities at home? Are  
21 there things you do every day --

22 A I don't do anything now, because at home  
23 there I had yard work all the time and lawn -- acre  
24 of lawn to mow, and I done part of that with a  
25 walking mower. And shoveling snow. Of course I

1 still shovel a little snow, but I just take my time.

2 Q All those things make you short of breath?

3 A Yes, if I do it too fast or -- The lawn  
4 mowing -- Well, the place got too much for me to  
5 handled, so I moved out.

6 Q What if you take your time, do you still  
7 get short of breath?

8 A Well, once in a while, but I just stop and  
9 wait until it passes over.

10 Q You mentioned earlier that talking can  
11 make you short of breath?

12 A Sometimes it does, yes.

13 Q When do you notice that that happens?

14 A Just like right now I can feel that it is  
15 starting to get to me.

16 Q How about singing or yelling or anything?

17 A I don't sing.

18 Q Did you used to sing?

19 A Oh, yes. I used to sing at church, but I  
20 don't anymore because I sing two or three words and  
21 that's it.

22 Q The breathing gets you, is that what --

23 A Yeah. So I just keep quiet. And it looks  
24 better and sounds better.

25 Q I do the same thing. It isn't a breathing

1 problem, but -- Are there activities that five years  
2 ago you used to do then but you don't do anymore?

3 A Well, the family used to do a lot of ball  
4 playing when we had picnics, but I don't think I  
5 could do that anymore. But lately we haven't been  
6 at any family picnics for a while.

7 Q Have the things that you mentioned before,  
8 about snow shoveling and yard work and things like  
9 that, have they had a pretty big impact on your  
10 life?

11 A Well, the yard work has. I can -- I'll  
12 still go out and try to shovel a little bit of snow.  
13 Or push it anyhow. That's what I got is a pusher.

14 Q Where do you live now?

15 A Park Apartments. 306 West Third.

16 Q Is that in town?

17 A Yes.

18 Q How long have you lived there?

19 A A month, anyhow.

20 Q Where did you live before --

21 A A little over a month. I lived at  
22 208 Granny Garden Road.

23 Q I'm going to hand you an exhibit, it's  
24 514-1. That top photo there.

25 A That top photo is the back yard.

1 Q Did you used to ride your bike a lot?

2 A I rode it to work every day for many  
3 years.

4 Q How about walking? Do you and your wife  
5 go for walks --

6 A I've been doing that a little bit now, but  
7 out there I didn't do too much of it because I  
8 figured I done enough of that just working around  
9 the yard. I've taken quite a few walks since I've  
10 moved into town. Been real slow and not to far.  
11 Maybe 10, 12 blocks.

12 Q How often do you have to stop, if you do,  
13 for breathing?

14 A If I take it slow, I maybe only have to  
15 stop once to rest. If I run into somebody, I gab a  
16 little bit.

17 Q Do you ever get upset about your  
18 condition?

19 A Sometimes.

20 Q What kinds of things upset you?

21 A Just the idea that I can't do what I used  
22 to do really upsets me.

23 Q Why do you feel you can't do them?

24 A There is not enough oxygen there, I guess,  
25 most of the time.

1 Q Are there still things you would like to  
2 do?

3 A Yeah, I would like to get out and really  
4 shovel snow and work the lawn mowers and especially  
5 without a mask.

6 Q Do you ever still try to do some of those  
7 things?

8 A Well, not this year I haven't. Not since  
9 probably about August anyhow.

10 Q Are you involved with any groups in the  
11 community?

12 A Just Sons of Norway.

13 Q What kinds of things do you do with them?

14 A Well, about all we do there is make lefsa  
15 and Vikings and rosettes.

16 Q Has that activity changed at all because  
17 of your breathing problem?

18 A No, because I can make lefsa sitting  
19 down -- or, what I do, I can. What the rest of them  
20 do is different. But I just cook them, so I can put  
21 a chair between two plates and that's the way I work  
22 it.

23 Q How would you describe your relationship  
24 with your wife?

25 A Good.